

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
2 SKYLINE, 10th FLOOR
5203 LEESBURG PIKE
FALLS CHURCH, VIRGINIA 22041

AUG 26 1986

FRANK McCOART,	:	DISCRIMINATION PROCEEDING
Complainant	:	
	:	Docket No. KENT 86-63-D
v.	:	CD 86-05
	:	
ELM COAL COMPANY,	:	No. 2 UG Mine
Respondent	:	

DECISION APPROVING SETTLEMENT

Appearances: Frank McCoart, Van Lear, Kentucky, pro se;
Michael J. Schmitt, Esq., Wells, Porter,
Schmitt & Walker, Paintsville, Kentucky,
for Respondent.

Before: Judge Maurer

Statement of the Case

This is a discrimination proceeding initiated by the complainant against the respondent pursuant to section 105 (c) of the Federal Mine Safety and Health Act of 1977, charging the respondent with unlawful discrimination against Mr. McCoart for exercising certain rights afforded him under the Act. A hearing in this matter was convened in Prestonsburg, Kentucky, on August 5, 1986. After commencing his case-in-chief, Mr. McCoart moved for a continuance so that he might obtain counsel to assist him in preparing and presenting his claim. I granted this motion over objection of respondent's counsel and the hearing was continued at that point.

Subsequently, the parties have jointly proposed a settlement by a written motion to approve settlement filed on August 8, 1986. That proposal contemplates a dismissal of the complainant's claim against the respondent with prejudice upon the following terms and conditions:

(1) The respondent shall and has purged the complainant's personnel file of all reprimands, warnings and disciplinary actions so that such records will not reflect adversely upon the complainant and inhibit his ability to obtain future employment as a coal miner.